



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,593	01/22/2002	William L. Duncan	P6800	6958

7590 08/02/2005

PAUL D. SORKIN  
SUN MICROSYSTEMS, INC.  
1 NETWORK DRIVE, MS UBUR02-310  
BURLINGTON, MA 01803

EXAMINER
----------

CHASE, SHELLY A

ART UNIT	PAPER NUMBER
----------	--------------

2133

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

87

**Office Action Summary**

Application No.

10/055,593

Applicant(s)

DUNCAN ET AL.

Examiner

Shelly A. Chase

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 2, 11-17, 19, 23, 24, 26 and 35-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 18, 25, 42, 48 and 50 is/are rejected.
- 7) ☒ Claim(s) 3-10, 20-22, 27-34, 43 to 47, 49 and 51-57 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

*Shelly A. Chase*  
**SHELLY CHASE**  
**PRIMARY EXAMINER**

### **DETAILED ACTION**

1. Claims 1, 3 to 10, 18, 20 to 22, 25, 27 to 34, and 42 to 57 are presented for examination.

#### ***Allowable Subject Matter***

2. Applicant is advised that the Notice of Allowance mailed 5-25-2005 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

3. Prosecution on the merits of this application is reopened on claims 1 to 10, 18 to 22, 25 to 34, 42 to 57 and are considered unpatentable for the reasons indicated below:

#### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 18, 25, 42, 48 and 50 are rejected under 35 U.S.C. 101 because

The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technology art, environment or machine which

would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subjected matter under 35 U.S.C. 101.

MPEP 2111 requires that claims be given the broadest reasonable interpretation in light of the specification during the examining process. Thus, interpreting the claim language in light of the specification has yielded non-statutory subject matter according to MPEP 2106. The portion of the specification used is paragraph (0028) which states that the error detection techniques may be implemented as a method, apparatus, or article of manufacture using standard programming/and or engineering technique to produce software, firmware, hardware, or any combination thereof. The specification also stated that the term "article of manufacture" refers to a code or logic and the article of manufacture in which the code is implemented may comprise a transmission media, such as a network transmission line, wireless transmission media, signal propagating through space, radio waves, infrared signals, etc..

#### ***Allowable Subject Matter***


5. Claims 3 to 10, 20 to 22, 27 to 34, 43 to 47, 49 and 51 to 57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelly A. Chase whose telephone number is 571-272-3816. The examiner can normally be reached on Mon-Thur from 8:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 571-272-3819. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**SHELLY CHASE**  
**PRIMARY EXAMINER**